

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

IN RE: PLUG POWER INC. SECURITIES
LITIGATION

Case No. 1:23-cv-0409 (MN)

DEFENDANTS' MOTION TO DISMISS AND TO STRIKE

Defendants Plug Power Inc., Andrew Marsh, Paul B. Middleton, David Mindnich, and Sanjay Shrestha hereby move (1) pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss the amended complaint dated September 28, 2023 [D.I. 45] for failure to state a claim upon which relief can be granted, and (2) pursuant to Rule 12(f) of the Federal Rules of Civil Procedure, to strike certain allegations in the complaint attributed to an unnamed person identified in the complaint as "Witness 1."

The grounds for this motion are set forth in the Opening Brief in Support of Defendants' Motion to Dismiss and to Strike and are further supported by Defendants' Request for Judicial Notice and its attached exhibits, all of which are being filed contemporaneously.

Dated: December 14, 2023

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